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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,072	12/28/2001	Michael Slutsky	1130	2236
7590 09/22/2004				
Himanshu S. Amin Amin & Turocy, LLP 24th Floor, National City Center 1900 East Ninth Street Cleveland, OH 44114		EXAMINER KIM, AHSHIK		
		ART UNIT PAPER NUMBER		
		2876		
DATE MAILED: 09/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,072

Applicant(s)

SLUTSKY ET AL.

Examiner

Ahshik Kim

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/04 (Amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed on July 7, 2004. In the listing of
5 claims, Applicant stated that claim 1 was amended. Claim 1 appears to be the same as
previously presented claim 1. Nevertheless, Applicant is respectfully suggested to list claims in a
manner to show changes. Currently, claims 1-11 remain for examination.

Claim Rejections - 35 USC § 102

10 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
15 sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kunert et
al. (US 6,109,528, hereinafter “Kunert”).

Re claims 1, and 3-7, Kunert teaches a portable electronic device 10 (see abstract)
comprising an imager device in the form of photo diode, a laser scanner (col. 13, lines 15+) and
20 application specific integrated circuit (ASIC) (col. 12, lines 65+) which controls the majority of
functions associated with a laser-based scanner. The micro controller implements a gas gauge
function and recharging function (col. 18, lines 1+).

Re claims 8 and 9, the battery is a Nickel-metal hydride type (col. 17, lines 17+) or
lithium-ion type (col. 19, lines 15+).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

5 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10 5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out
15 the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kunert et al. (US 6,109,528) in view of Lieb et al. (US 5,875,415, hereinafter "Lieb"). The teachings of Kunert
20 have been discussed above.

Although Kunert discloses transmitting data to a host on many occasions (col. 12, lines 53-64), Kunert fails to specifically teach or fairly suggest that the terminal transmits data to multiple destinations.

Lieb teaches an interface system for use with a data acquisition system in which the data
25 acquisition system can be a bar code reader (see abstract). As shown in figures 3(B) – 3(E), and 4, the host device can be a different type (col. 4, lines 21+; col. 5, lines 11+; col. 6, lines 24+).

In view of Lieb's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate well-known universal interface to the teachings of Kunert in order to transmit data to varying host machines. By incorporating such interface, captured data can be transmitted to almost all host machines, significantly improving the
5 versatility of the reader. Users do not need to purchase a particular reader or particular host machine, reducing the cost of the reader system. Moreover, additional learning time and cost for a new type of terminal can also be saved, and therefore an obvious expedient.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kunert
10 et al. (US 6,109,528) in view of Meier et al. (US 6,561,428, hereinafter "Meier"). The teachings of Kunert have been discussed above.

Kunert fails to specifically teach or fairly suggest that the ASIC in the barcode reader further comprises IDE interface function.

Meier teaches an optical reader 10 reading image data (see abstract) comprising an ASIC
15 circuitry (col. 5, lines 5, lines 46-52). The circuitry further includes memory devices including "Compact Flash" or MMC card (col. 5, line 53- col. 6, line 15), which means that the interfaces for the card would also be included. The micro controller implements a gas gauge function and recharging function (col. 18, lines 1+).

In view of Meier's teaching, it would have been obvious to an ordinary skill in the art at
20 the time the invention was made to incorporate well-known data storage mediums such as "CF" card or hard-disks to the teachings of Kunert in order to increase storage capacity of the data terminal. As known, the barcode and other image data are becoming increasingly denser,

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carrying large amount of information. Accordingly, the reader apparatus have to have large memory area to capture and manipulate complex image data. Moreover, by providing permanent storage area, the image can be stored and transmitted to other device, and therefore an obvious expedient.

5

Response to Arguments

8. Applicant's arguments filed on July 7, 2004 have been carefully considered, but they are not persuasive.

Applicant argues that Kunert does not anticipate the subject matter disclosed in claim 1.

10 Applicant states "Independent claim 1 recites an imager coupled to the portable electronic device; a laser coupled to the portable electronic device." Applicant further states " These are two separate image capture devices. The imager is an image capture device such as a charged couple device (CCD) photosensor array imaging device. The laser scanner includes its own laser output and image sensor. Furthermore," (See page 8 under I. Rejection of Claims 1 and 15 3-9 Under 35 USC 102(b)).

In reviewing claim 1, nowhere in claim 1, it is stated that a laser scanner further comprised of a separate imaging device. Perhaps the applicant is claiming a portable electronic device comprising a multiple image capture device configured to capture multiple separate images. If so, claim 1 does not claim such device. Examiner once again reviewed the 20 specification to search for what is argued in the Remarks. However, specification (in the summary of invention) disclose a conventional scanner with ASIC circuits. Accordingly, any laser scanner comprising image capture device and ASIC circuitry would meet claim 1.

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Applicant is respectfully suggested to clearly define what is claimed in the instant application. Moreover, Applicant is suggested to point out in the specification what is claimed in the claims.

The amended claims and remarks describing these elements have been fully considered,
5 but they are not persuasive, and therefore, the Examiner has made this Office Action final.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
15 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahshik Kim whose telephone number is (571)272-2393. The
20 examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday. The fax number directly to the Examiner is (571)273-2393.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (703)872-9306.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Ahshik Kim
Patent Examiner
Art Unit 2876
September 8, 2004



MICHAEL G. LEE
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